



Capital
Markets
Tribunal

Tribunal des
des marchés
financiers

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**IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. and COLIN FISHER**

Adjudicator: Timothy Moseley

File No. 2020-40

April 29, 2022

ORDER

WHEREAS on April 27, 2022, the Capital Markets Tribunal held a hearing by videoconference with respect to a motion by the respondent Colin Fisher for an order that Staff of the Commission may not adduce, in connection with the hearing on the merits in this proceeding, part or all of the proposed affidavits of Catherine Muhindi, Sherry Brown and Trevor Walz, delivered by Staff to Fisher on March 25, 2022, and filed by Fisher on this motion;

ON READING the materials filed by Fisher and Staff, and on hearing the submissions of the representatives for Fisher and Staff, no one appearing for Stableview Asset Management Inc.;

IT IS ORDERED, for reasons that follow, that:

1. the following are inadmissible at the hearing on the merits in this proceeding:
 - (a) the following portions of the proposed affidavit of Catherine Muhindi:
 - i. the first sentence of paragraph 21;
 - ii. the first sentence of paragraph 23;
 - iii. paragraph 24;
 - iv. the opening words of paragraph 25 that precede the four-subparagraph list;
 - v. the first sentence of paragraph 43;
 - vi. in subparagraph 43a, the words preceding "Clarocity's MD&A";
 - vii. in paragraph 45, the words preceding "Stableview maintained";
 - viii. the last sentence of paragraph 46; and
 - ix. the first sentence of paragraph 52;
 - (b) the following portions of the proposed affidavit of Catherine Muhindi, except that in each case Staff may adduce the underlying facts in support of a submission that the Tribunal ought to reach the conclusion referred to in that portion of the affidavit:
 - i. the second sentence of paragraph 21;

- ii. the second sentence of paragraph 23;
 - iii. subparagraphs 25a through 25d;
 - iv. paragraphs 34 and 35;
 - v. the first and last sentences of paragraph 37;
 - vi. the fourth sentence of paragraph 39;
 - vii. paragraph 41; and
 - viii. in paragraph 45, the words beginning with "Stableview maintained";
- (c) the following portions of the proposed affidavit of Sherry Brown:
- i. in paragraph 57, the words preceding "Fisher caused", and in the third sentence, the words "The Investigation showed"; and
 - ii. the first and second sentences of paragraph 94;
- (d) the following portions of the proposed affidavit of Sherry Brown, except that in each case Staff may adduce the underlying facts in support of a submission that the Tribunal ought to reach the conclusion referred to in that portion of the affidavit:
- i. paragraph 44;
 - ii. in paragraph 57, the portion of the first sentence beginning with "Fisher caused", and the portion of the third sentence beginning with "Clarity to be";
 - iii. the first sentence of paragraph 70, preceding the table; and
 - iv. the last sentence of paragraph 88;
- (e) the following, except that this provision of the order is without prejudice to Staff's right to seek to adduce, at the hearing on the merits and before the panel presiding over that hearing, specific portions of the transcript of the voluntary interview of Fisher conducted on September 5, 2019:
- i. paragraphs 54 and 55 of the proposed affidavit of Catherine Muhindi; and
 - ii. the last sentence of paragraph 85, and subparagraphs 85a through 85d, of the proposed affidavit of Sherry Brown; and
- (f) the proposed affidavit of Trevor Walz, except the terms and conditions referred to in paragraph 9; and
2. the parties may seek directions from the Tribunal as necessary to implement this order.

"Timothy Moseley"
Timothy Moseley